

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSITAS EDUCATION, LLC,

Judgment Creditor, :

-against- :

Case Nos. 11 CV 1590-LTS-HBP and  
11-8726-LTS

NOVA GROUP, INC., as trustee, sponsor and :  
fiduciary of THE CHARTER OAK TRUST :  
WELFARE BENEFIT PLAN, :

Judgment Debtor.  
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**SUPPLEMENTAL DECLARATION OF PAULA K. COLBATH, ESQ. IN  
SUPPORT OF UNIVERSITAS' MOTION, PURSUANT TO CPLR 5240,  
TO EXTEND THE DURATION OF THE RESTRAINING NOTICES  
ISSUED TO THIRD-PARTY GARNISHEES**

**PAULA K. COLBATH**, an attorney admitted to practice law in the Courts of the  
State of New York, declares the following under penalty of perjury pursuant to 28 U.S.C.  
§ 1746:

1. I am a partner in the law firm of Loeb & Loeb LLP, attorneys for  
Universitas Education, LLC ("Universitas"), the Judgment Creditor in the above-  
captioned proceeding. I have personal knowledge of all of the following facts.

**INTRODUCTION**

2. I respectfully submit this supplemental declaration pursuant to Fed. R.  
Civ. P. 69(a)(1) and N.Y. C.P.L.R. § 5240 in support of Universitas' Motion, for a  
Supplemental Order extending the expiration date of certain restraining notices served by  
Universitas on third-party garnishees, which currently are set to expire in September  
2015, until Universitas' Judgments against Judgment Debtors' Nova Group, Inc., Daniel

Carpenter, Grist Mill Trust Welfare Benefit Plan and any trustees and plan sponsors thereof insofar as they hold Grist Mill Trust assets (“Grist Mill Trust”), Grist Mill Capital, LLC, Grist Mill Holdings, LLC, Carpenter Financial Group, Avon Capital, LLC, Phoenix Capital Management, LLC, and Hanover Trust Company are satisfied in full. In addition, I respectfully request that the restraining notices that Universitas served on or around September 2014 on the third-party garnishees remain in effect until resolution of this application.

3. Attached as **Supplemental Exhibit 1** is a true and correct copy of the Order to Show Cause and Temporary Restraining Order, signed by Judge Analisa Torres on August 26, 2015, as to 11 restraining notices that were expiring on August 27, 2015 that are currently the subject of a show cause hearing on October 8, 2015. The instant application is with regard to certain other restraining notices that expire in September 2015.

4. Attached as **Supplemental Exhibit 2** is a true and correct copy of a Memorandum of Decision dated September 23, 2003, docket No. 292 in *Cahaly v. Benistar Property Exchange Trust Co., Inc.*, Suffolk Superior Court Civil Action No. 01-0229BLS2 (Botsford, J.).

5. Attached as **Supplemental Exhibit 3** is a true and correct copy of the Verdict Form in *Iantosca v. Benistar Admin Services, Inc. et al.*, Case no. 1:08-cv-11785-NMG (docket 541, filed on April 10, 2012).

6. Attached as **Supplemental Exhibit 4** is a true and correct copy of excerpts of Daniel Carpenter’s limited deposition taken on April 17, 2013.

7. Attached as **Supplemental Exhibit 5** is a true and correct copy of excerpts of Peter Goldman, Judgment Debtor Nova Group, Inc.'s Rule 30(b)(6) corporate designee, taken on July 26, 2013.

8. Attached as **Supplemental Exhibit 6** is a true and correct copy of excerpts of Richard Order's deposition, taken on January 10, 2013.

9. Attached as **Supplemental Exhibit 7** and **Exhibit 8** are true and correct copies of excerpts of Daniel Carpenter's limited deposition, taken on April 17, 2013.

10. Attached as **Supplemental Exhibit 9** is a true and correct copy of a letter dated September 2, 2015 from Daniel Carpenter's counsel, the law firm of Hurwitz Sagarin Slossberg & Knuff, and a letter dated September 2, 2015 from the law firm of Brown Paindiris & Scott, LLP.

11. Attached as **Supplemental Exhibit 10** is a true and correct copy of a deposition subpoena served on Molly Carpenter, dated January 22, 2015.

12. Attached as **Supplemental Exhibit 11** is a true and correct copy of Universitas' June 2012 Judgment.

13. Attached as **Supplemental Exhibit 12** is a true and correct copy of Universitas' August 2014 Judgments.

14. Attached as **Supplemental Exhibit 13** is a true and correct copy of the restraining notices that were served on the following individuals and/or entities in September 2014: Benistar Admin Services, Inc., Molly Carpenter, Donald Trudeau, Kathy Kehoe, Donna Wayne, Amanda Rossi, Ineke Murphy, Donna Dawson, Westcott & Associates, Matt Westcott, National Life Insurance Co. and Life Insurance Co. of the Southwest, the SADI Trust, Hanover Benefit Plans, LLC, Birch Hill Partners, LLC, Grist

Mill Partners, LLC, Security Life of Denver Insurance Co., Audit Risk Indemnity Association, Aviva Risk Indemnity Assoc., MassMutual Financial Group and MassMutual Life Insurance Co., American General Life Insurance Co., Union Central Life Insurance Co., Fidelity and Guaranty Life Insurance Co., Transamerica Financial Life Insurance Company, Carpenter Charitable Remainder Trust, TPG Group, Nova Benefit Plans, MetLife, Simsbury Bank and Trust Company, Seir Hill Partners, LLC, and Greyhound Partners, LLC.

15. Attached as **Supplemental Exhibit 14** is a true and correct copy of the complaint, without exhibits, in *Life Insurance Company of the Southwest v. Kathy Kehoe, as Trustee of the Grist Mill Trust Dated October 1, 2003 and Universitas Education LLC*, Case No. 15 Civ. 4594, before Judge Nathan.

16. Attached as **Supplemental Exhibit 15** is a true and correct copy of the complaint, without exhibits, in *The Penn Mutual Life Insurance Company v. Kathy Kehoe, as Trustee of the Sickness Accident & Disability Indemnity Trust 2005 and Kathy Kehoe, as Trustee of the Grist Mill Trust Dated 10-1-03 and Universitas Education, LLC*, Case No. 15 Civ. 1111, before Judge Nathan.

17. Attached as **Supplemental Exhibit 16** is a true and correct copy of a March 2, 2011 check from the SADI Trust in the amount of \$150,000, payable to Updike, Kelly & Spellacy.

18. Attached as **Supplemental Exhibit 17** is a true and correct copy of an April 15, 2014 document on the letterhead of Nova Benefit Plans, LLC, signed by Wayne H. Bursey and Kathleen Kehoe.

19. Attached as **Supplemental Exhibit 18** is a true and correct copy of a Limited Liability Company Operating Agreement for Hanover Benefit Plans, LLC.

20. Attached as **Supplemental Exhibit 19** is a true and correct copy of documents produced by Grist Mill Trust listing numerous policies owned by Grist Mill Trust and the cash values of each policy, bearing Bates numbers GMT-000277-000281.

21. Attached as **Supplemental Exhibit 20** is a true and correct copy of MetLife policies, showing four policies for Daniel Carpenter, one for Molly Carpenter and one for their daughter Caroline Carpenter.

22. Attached as **Supplemental Exhibit 21** is a true and correct copy of excerpts of the Interim Award by the Arbitrator.

23. Attached as **Supplemental Exhibit 22** is a true and correct copy of Stipulation in the United States District Court of Connecticut with regard to Grand Jury Investigations.

24. Attached as **Supplemental Exhibit 23** is a true and correct copy of Nova Group's 2009 federal income tax return.

25. Attached as **Supplemental Exhibit 24** is a true and correct copy of checks paid by Molly Carpenter to the HKM Firm.

26. Attached as **Supplemental Exhibit 25** is a true and correct copy of a Declaration of Kathy Kehoe, dated June 12, 2014.

27. Attached as **Supplemental Exhibits 26 and 27** are true and correct copies of excerpts of Donald Trudeau's deposition, taken on February 6, 2013.

28. Attached as **Supplemental Exhibit 28** is a true and correct copy of documents referencing Amanda Rossi.

29. Attached as **Supplemental Exhibit 29** is a true and correct copy of a fax from Wayne Bursey to Heather Sammon dated September 1, 2009, a letter from Ineke Murphy dated March 29, 2013, and a letter dated November 18, 2010 from Wayne Bursey.

30. Attached as **Supplemental Exhibit 30** is a true and correct copy of excerpts from Matthew Westcott's deposition, taken on January 31, 2013.

31. Attached as **Supplemental Exhibit 31** is a true and correct copy of Plaintiff's Responses to the Defendant's First Set of Interrogatories in *Grist Mill Partners, LLC v. Curaleaf, LLC*.

32. On or about September 22, 2015, I received a call from Security Life of Denver Insurance Co. asking about the status of the restraining notice as to a Grist Mill Policy issued to an insured by the name of Vorhees. I informed the representative that we had a judgment against Grist Mill Trust and that we were in the process of finalizing an application to the Court.

33. Attached as **Supplemental Exhibit 32** is a true and correct copy of excerpts of Grist Mill Trust Cash Disbursements Journal.

34. Attached as **Supplemental Exhibit 33** is a true and correct copy of People's United Bank Business Signature Card, signed by Daniel Carpenter for the account of Audit Risk Indemnity Association, LLC.

35. Attached as **Supplemental Exhibit 34** is a true and correct copy of the Connecticut Secretary of State form showing that Birch Hill Partners, LLC was registered on June 8, 2010.

36. Attached as **Supplemental Exhibit 35** is a true and correct copy of checks signed by the Carpenters from the account of Birch Hill Partners.

37. Attached as **Supplemental Exhibit 36** is a true and correct copy of Birch Hill Partners, LLC's deed and mortgage for Carpenter's daughter, Caroline and her husband, Steven Meckel.

38. Attached as **Supplemental Exhibit 37** is a true and correct copy of excerpts of Daniel Carpenter's limited deposition, taken on October 19, 2012.

39. Attached as **Supplemental Exhibit 38** is a true and correct copy of document showing that Greyhound Partners, LLC was registered on December 30, 2010.

40. Attached as **Supplemental Exhibit 39** is a true and correct copy of a deed, promissory note, and warranty deed in connection with a property located at 84 Lawton Road in Canton, Connecticut.

41. Attached as **Supplemental Exhibit 40** is a true and correct copy of excerpts of Daniel Carpenter's limited deposition, taken on October 19, 2012.

42. Attached as **Supplemental Exhibit 41** is a true and correct copy of excerpts from a Memorandum in support of motion to quash subpoena as to Simsbury Bank.

43. Except for the application referred to in paragraph 3, which relates to different restraining notices than the ones at issue in this application, no prior application for the relief sought in Universitas' Supplemental Order to Show Cause with a Temporary Restraining Order has been made to this or any other Court.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing  
is true and correct.

Dated: New York, New York  
September 24, 2015



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PAULA K. COLBATH